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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,635	10/19/2001	Stewart Douglas Hutcheson	02-40282-US	1892

7590 11/30/2006

LOUIS M. HEIDELBERGER, ESQ.
REED SMITH LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103

EXAMINER

RAMPURIA, SHARAD K

ART UNIT PAPER NUMBER

2617

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/045,635

Applicant(s)

HUTCHESON ET AL.

Examiner

Sharad Rampuria

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see continuation sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


GEORGE ENG
SUPERVISORY PATENT EXAMINER

Applicant's arguments filed on 10/25/2006 have been fully considered but they are not persuasive.

Relating to Claim 1:

In comeback to Applicant's allegation that '183 patent doesn't teach, "Wherein said service area substantially coincides with a modeled geographic area that approximate at least one municipal region indicative of anticipated participation of the at least one subscriber in at least one selected from the group consisting of living, working, playing, shopping and traveling." it is noted that the Examiner respectfully emphasize that the cited art, is legally efficient for the purpose of rendering claim unpatentable. In particular, '183 patent supports the assertion as, that Claim 22 of the '183 Patent which claims, "Providing the wireless communications services solely from a limited geographic area that approximates at least one municipal region in which the subscriber substantially lives, works, and plays." As applicant concur, that a limited region may be a modeled region (see second paragraph of Page.9 in Arguments filed on 10/25/2006), therefore, "a modeled geographic area that approximate at least one municipal region" that can counterpart to "a limited geographic area that approximates at least one municipal region" and also, it is well known, a municipal region could be a town, village, or a city, which includes a living, work, or a play area, besides applicant is claiming an approximates at least one municipal region that is off course approximate (please spot the statement "approximate") municipal region surrounded by a living, work, or a play area, at the same time as in support; As further analyzed the claimed invention with patent '183 the instant claim has the same scope as described above. Hence, it is believed that *'183 patent still includes the claimed limitations.*

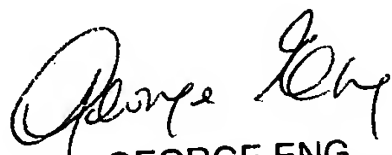
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The above arguments also recites for the claim 16, consequently the response is the same explanation as set forth above with regard to claim 1.

Because the remaining claims depend directly/indirectly, from one of the independent claims discussed above, consequently the response is the same explanation as set forth above.

With the intention of that explanation, it is believed and as enlighten above, the refutation are sustained and double-patenting rejection is valid.

Sharad Rampuria
Patent Examiner
Art Unit 2617


GEORGE ENG
SUPERVISORY PATENT EXAMINER